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OFFICE OF PETITIONS

In re Application of :
Yamagiwa :
Application No. 09/926,485 : Corrected Letter Regarding
International Filing Date: April 18, 2000 : Patent Term Extension
For: TIRE CONTAINING SEALING AGENT :
:

The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on October 19, 2005, which incorrectly states the patent term is extended by 241 days. See 35 U.S.C. §§ 154(a)(2) and (b)(1)¹ and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on September 27, 2004. On September 22, 2005, the Board of Appeals and Interferences reversed the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on September 27, 2004, the date that the Notice of Appeal was filed, and ending on September 22, 2005, the date of the final decision in favor of the applicant. Three years after the international filing date of the application is April 18, 2003. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of

¹35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

extension is **361 days**, Not 241 days, as printed on the Notice of Allowance, which is the period from September 27 2004 to September 22, 2005, including the beginning and end dates.

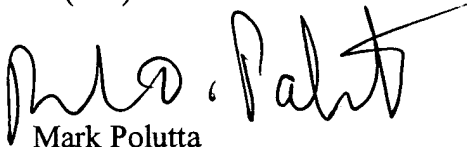
After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **361 days**.

Further correspondence with respect to this matter should be addressed as follows:

By fax: Attn: Patent Term Extension Reply
 (571) 273-8300

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

A handwritten signature in black ink, appearing to read "Mark Polutta", with a stylized flourish extending from the end.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy